IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 9TH APRIL 2007 / 19TH CHAITHRA 1929

WP(C).No. 25743 of 2003(M)

PETITIONER:

K.K. VISWAMBHARAN, S/O. KUNJALDAN,
KOTTEKKAT HOUSE, KIZHAKKUMMURI,
THRISSUR DISTRICT.

BY ADV. SRI.DILIP J. AKKARA

RESPONDENTS:

---

1. DISTRICT COLLECTOR, COLLECTORATE,
THRISSUR-3.

2. REVENUE DIVISIONAL OFFICER,
AYYANTHOLE, THRISSUR.

3. TAHSILDAR, TALUK OFFICE, THRISSUR.

BY ADV. SHRI.P.K.RAVI KRISHNAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO. 25743/2003

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE ORDER NO. B4-43039/01 DATED 29/10/01 OF 1ST RESPONDENT.

P2 : COPY OF PROCEEDINGS DATED 17/6/02 NO. G4-5808/01 OF 3RD RESPONDENT.

P3 : COPY OF PROCEEDINGS NO. C1-9733/02/K.DIS. DATED 26/7/2002 OF 2ND RESPONDENT.

P4 : COPY OF ORDER OF ASSESSMENT NO. G4-5808/01 OF 3RD RESPONDENT DATED 29/8/2002.

P5 : COPY OF PROCEEDINGS OF 2ND RESPONDENT NO. C1-13920, K.DIS. DATED 17/1/03.

P6 : COPY OF PROCEEDINGS OF 1ST RESPONDENT NO. G9-7927/03 DATED 17/6/03.

// TRUE COPY //

PA TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 25743 OF 2003

Dated this the 9th day of April, 2007

JUDGMENT

Petitioner is challenging Ext.P6 whereunder the District Collector has rejected the Revision Petition filed against the order of the RDO confirming the revision of building tax assessment in respect of a shopping complex constructed by the petitioner. Counsel for the petitioner contended that building tax return was filed in 1995 and therefore the rate of building tax applicable is the rate prevalent on the date of completion of construction of the building. However, on going through the petitioner's own statement recorded in Ext.P2 I find that petitioner initially constructed ground floor with 600 sq.metres and filed return. Later a second return was filed showing the plinth area of the ground floor and first floor as 4000 sq.fts. each. However, the plinth area assessed is 1326.30 sq.metres with 21 shops in the ground floor and remaining shop rooms in the first floor. The case of the respondents is that petitioner filed first return and continued construction of the building and the same was completed in 2001. In

the circumstances, the assessment of the building after full completion of construction of the building cannot be said to be illegal or arbitrary. In fact Section 5(4) of the Building Tax Act provides for assessment of entire building. As and when additional plinth area is added to the building, credit should be given for the tax paid earlier. Since the building consists of several shop rooms constructed simultaneously, there is nothing wrong in waiting for completion of the entire building for building tax assessment, even though returns are filed periodically after completion of construction of some of the rooms. In the circumstances, I do not find any ground to interfere with the impugned order sustaining revised building tax assessment after one round of remand. So far as the dispute regarding plinth area of the building is concerned, the contention of the petitioner is that varandah is not part of the shop room. Obviously varandah is part of shop room and therefore this contention is also not tenable. In the circumstances, the challenge against revised assessment of building tax confirmed by the District Collector is rejected. However, petitioner is granted time till 10th May, 2007 to clear the balance arrears without interest. However,

if payment is not made as above, respondents are free to proceed for recovery of the amount with interest also.

(C.N.RAMACHANDRAN NAIR)
Judge